

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**LARRY A. THOMPSON,**

**Petitioner,**

**v.**

**NEBRASKA DEPARTMENT OF  
CORRECTIONS, ROBERT P.  
HOUSTON, Director Department of  
Corrections, and FRED BRITTEN,  
Warden Tecumseh State Corr. Inst.,**

**Respondents.**

**CASE NO. 8:12CV191**

**MEMORANDUM  
AND ORDER**

This matter is before the court on its own motion. On October 18, 2012, the court dismissed Petitioner's habeas corpus claims with prejudice and entered judgment against him. (Filing Nos. [15](#) and [16](#).) Thereafter, Petitioner filed a timely Notice of Appeal of the court's Judgment. (Filing No. [19](#).) To date, Petitioner has not filed a Motion for Certificate of Appealability.

A petitioner cannot appeal an adverse ruling on his petition for writ of habeas corpus under § 2254 unless he is granted a certificate of appealability. [28 U.S.C. § 2253\(c\)\(1\)](#); [Fed. R. App. P. 22\(b\)\(1\)](#). A certificate of appealability cannot be granted unless the petitioner "has made a substantial showing of the denial of a constitutional right." [28 U.S.C. § 2253\(c\)\(2\)](#). To make such a showing, "[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." [Slack v. Daniel, 529 U.S. 473, 484 \(2000\)](#).

Petitioner failed to make a substantial showing of the denial of a constitutional right in his Petition. The court is not persuaded that the issues raised in the Petition and Amended Petition are debatable among reasonable jurists, that a court could resolve the

issues differently, or that the issues deserve further proceedings. Accordingly, the court will not issue a certificate of appealability in this case.

IT IS THEREFORE ORDERED that:

1. The court will not issue a certificate of appealability in this matter; and
2. Because Petitioner was allowed to proceed in forma pauperis in this matter, he may proceed on appeal in forma pauperis without further authorization from this court. [Fed. R. App. P. 24\(a\)\(3\)](#).

DATED this 1<sup>st</sup> day of April, 2013.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge

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